

EX PARTE OR LATE FILED ORIGINAL OR GINAL

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

RICHARD M. RINDLER

DIRECT: (202) 424-7771  
RMRINDLER@SWIDLAW.COM

TH  
300  
WA  
T  
I

NEW YORK OFFICE  
THE CHRYSLER BUILDING  
405 LEXINGTON AVENUE  
NEW YORK, NY 10174  
TEL (212) 973-0111  
FAX (212) 891-9598

RECEIVED

NOV 20 2002

November 20, 2002

U.S. DEPARTMENT OF JUSTICE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

**VIA COURIER**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Meeting in WC Docket No. 02-306**

Dear Ms. Dortch:

Pursuant to Section 1.120(b)(2) of the Commission Rules, this letter is to provide notice in the above-captioned proceeding of an *ex parte* meeting. On November 18, 2002, Wallace Griffin (Chairman and CEO of Pac-West Telecomm, Inc.), John Sumpter (Vice President-Regulatory of Pac-West Telecomm, Inc.), and the undersigned met with Chairman Powell and Christopher Libertelli (Advisor to the Chairman).

At the meeting, we discussed the procedural posture of the California Public Utilities Commission ("CPUC") decision concerning Pacific Bell's 271 Application. In particular, we discussed the status of the CPUC proceeding related to the requirement for a public interest determination pursuant to state law prior to authorizing intrastate interLATA authority. We also discussed the significance of the CPUC decision that Pacific Bell failed to meet two (2) of the fourteen 271 checklist items, and the CPUC determination that it could not make the determination that allowing Pacific Bell into the intrastate interLATA long distance market did not pose a substantial possibility of harm to competition in that market.

Pac-West also detailed its difficulties with Pacific Bell in terms of provisioning, maintenance, billing, and collection. In its view, these problems demonstrated anticompetitive behavior by Pacific Bell. Pac-West noted that the statistics concerning marketshare indicated that Pac-West maintained its monopoly power in the local market and its prior behavior demonstrated that it would use that power to bundle services and leverage that power into the long distance market.

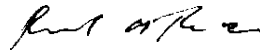
Marlene H. Dortch, Secretary  
November 20, 2002  
Page 2

ORIGINAL

Pac-West asserted that, in light of these findings, the FCC should deny Pacific Bell's 271 application. Pac-West also noted that, to the extent Pacific Bell filed supplemental materials relating to its compliance with the local number portability requirement of the checklist, that information should not be considered under the Commission's complete-when-filed rule.

Pursuant to Section 1.1206(a)(i) of the Commission's Rules, an original and one copy for each docket of this letter are being submitted to the Secretary for filing in the above-referenced proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Rindler", is positioned above the printed name.

Richard M. Rindler

RMR/kas

cc: Christopher Libertelli